

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:)	Case No. 12-12020 (MG)
)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,)	Chapter 11
)	
Debtors.)	Jointly Administered
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**STIPULATION AND ORDER MODIFYING THE
AUTOMATIC STAY TO PERMIT LIMITED THIRD PARTY DISCOVERY**

This Stipulation and Order (the “**Stipulation and Order**”) is made and entered into by, between and among The ResCap Liquidating Trust (the “**Liquidating Trust**”) established pursuant to the terms of the Plan (defined below) in the above-captioned bankruptcy cases (the “**Chapter 11 Cases**”), and Federated National Insurance Company (“**Requesting Party**” and, together with the Liquidating Trust and Debtors, the “**Parties**” and each, a “**Party**”).

WHEREAS Requesting Party is a defendant in an action currently pending in the Hillsborough County Circuit Court, Florida, brought by Jesus Alvarez (“**Alvarez**”) captioned *Jesus Alvarez v. Federated National Insurance Company*, Case No. 14-CA-006654 (the “**State Court Action**”);

WHEREAS the Debtors have never been named as defendants in the State Court Action;

WHEREAS Debtor GMAC Mortgage, LLC (“**GMACM**”) was the servicer for the mortgage loan(s) of Alvarez;

WHEREAS each of the debtors in the Chapter 11 Cases (the “**Debtors**”) filed voluntary petitions in this Court for relief under Chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) on May 14, 2012 (the “**Petition Date**”);

WHEREAS on October 12, 2012, the Court entered the *Memorandum Opinion and*

Order Denying the Motions of the Federal Housing Finance Agency and Underwriter Defendants to Compel Document Discovery From the Debtors [Docket No. 1813] (the “**Discovery Injunction**”);

WHEREAS on December 11, 2013, the Court entered an *Order Confirming Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC et al. and the Official Committee of Unsecured Creditors* approving the terms of the Chapter 11 plan, as amended (the “**Plan**”), in these Chapter 11 Cases [Docket No. 6065]. On December 17, 2013, the Plan went effective and the Liquidating Trust was created [Docket No. 6137];

WHEREAS on or about September 5, 2014, Requesting Party served a third-party subpoena on GMACM requesting certain documents related to the Alvarez mortgage loan;

WHEREAS the Debtors have not produced documents in response to the subpoena;

WHEREAS the Liquidating Trust asserts that Requesting Party’s non-party discovery requests are subject to the automatic stay imposed by Section 362(a) of the Bankruptcy Code pursuant to the Discovery Injunction;

WHEREAS the Liquidating Trust and Requesting Party have reached agreement under which the Liquidating Trust shall consent to a limited modification of the automatic stay and the Discovery Injunction to permit the production of certain agreed-upon documents on the terms and conditions contained herein, subject to Court approval of the Stipulation;

NOW THEREFORE, the Parties agree and stipulate as follows:

1. The automatic stay of section 362(a) of Bankruptcy Code and the Discovery Injunction are hereby modified for these limited purposes, and subject to the terms and conditions set forth herein.

2. The Liquidating Trust agrees to produce only the items set forth on **Exhibit A**, annexed hereto (the “**Agreed Documents**”). The Liquidating Trust shall not be required to provide any witness or other documents or items to Requesting Party under this Stipulation and Order.

3. Requesting Party acknowledge and agree that:

- a. Requesting Party and their affiliates have no current or prospective claims against the Debtors, the Liquidating Trust, the ResCap Borrower Claims Trust, or any of their respective affiliates; and
- b. Requesting Party shall treat the Agreed Documents in accordance with any applicable protective order that may be entered in the State Court Action; and
- c. Requesting Party and their affiliates shall not use any of the Agreed Documents in connection with any claims against the Debtors, the Liquidating Trust, the ResCap Borrower Claims Trust, or any of their respective affiliates.

4. This Stipulation and Order is without prejudice to the right of the Liquidating Trust to seek to enforce the automatic stay and/or the Discovery Injunction against Requesting Party in connection with any additional discovery requests or in any other context.

5. Except as specifically provided for herein, the Parties reserve all rights and defenses they may have in the above-captioned cases, and entry into this Stipulation and Order shall not impair or otherwise affect such rights and defenses, and all such rights and defenses are expressly preserved.

6. This Stipulation and Order shall not become effective unless and until it is entered by the Court.

7. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Order.

8. This Stipulation and Order may not be modified other than by a signed writing executed by the Parties hereto or by further order of the Court.

9. Each person who executes this Stipulation and Order on behalf of a Party hereto represents that he or she is duly authorized to execute this Stipulation and Order on behalf of such Party.

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Dated December 9, 2014

/s/ Norman S. Rosenbaum

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Dated: December 8, 2014

/s/ Sarah M. Baggett

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Company*

IT IS SO ORDERED.

Dated: December 19, 2014
New York, New York

/s/Martin Glenn

MARTIN GLENN
United States Bankruptcy Judge

EXHIBIT A

Agreed Upon Discovery Information

1. Copy of Alvarez loan file for property located at 3607 W. Renellie Circle, Tampa, Florida 33629
2. Certificate of Authenticity of Business Records